

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 10, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP2109-CR

Cir. Ct. No. 2012CF761

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

DANIEL JACKSON,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Brown County:
MARC A. HAMMER, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson and Stark, JJ.

¶1 PER CURIAM. Daniel Jackson, pro se, appeals a judgment of conviction for felony bail jumping. Jackson argues: (1) the circuit court erred by not allowing him to withdraw his plea; (2) the court was obligated to enforce the

terms of a prior plea offer; and (3) the court erroneously exercised its sentencing discretion. We reject Jackson's arguments and affirm.

¶2 Jackson was charged with one count of felony bail jumping; misdemeanor counts of battery, disorderly conduct, and criminal damage to property, as acts of domestic abuse; and bail jumping. The complaint alleged Jackson was intoxicated and grabbed the mother of his child by the skin of her neck, struck her across the face multiple times and tore off her shirt. The complaint further alleged Jackson violated the terms of bond.

¶3 On February 15, 2013, Jackson pleaded no contest to the felony bail jumping charge. The hearing transcript indicates that, pursuant to the plea agreement, the misdemeanor bail jumping charge was dismissed outright and the remaining misdemeanor charges were dismissed and read in. The circuit court imposed a sentence consisting of three years' initial confinement and three years' extended supervision.

¶4 On appeal, Jackson's arguments are difficult to discern. Jackson appears to argue the circuit court erred by denying plea withdrawal before sentencing, and denying his request to dismiss the bail jumping charge. We discern his argument to be that he could not have been convicted of the bail jumping offense because the "undisputed facts" show he was "in full compliance" with the terms of his bonds. Jackson also contends the circuit court lacked jurisdiction over his case.¹

¹ Jackson also moves to add an additional issue in the appeal, i.e., to "vacate court appointed attorney fees." Jackson fails to provide citation to authority establishing jurisdiction for this court to review the court commissioner's order in this regard, and we therefore deny the motion.

¶5 We conclude Jackson's claims fail because they cannot be adequately reviewed on this record. The record indicates the circuit court ruled on Jackson's presentencing motions for plea withdrawal at an April 5, 2013 hearing. No transcript of this proceeding appears in the record. Jackson's responsibility as appellant is to ensure a complete record for the issues on review. Missing material is assumed to support the trial court's decision to deny Jackson's motions to withdraw his plea. See *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993).

¶6 However, even if the record were adequate to permit review of the circuit court's ruling, Jackson's arguments fail on the merits. Jackson admitted that a factual basis existed to find him guilty of bail jumping by entering a no contest plea, and the court ascertained that a factual basis existed:

THE COURT: ... I'm looking at the Information. You believe the State could prove beyond a reasonable doubt that on Sunday, June 24, 2012, in the City of Green Bay, you had been charged with a felony, you had been released from custody, and you did intentionally fail to comply with the terms of the bond that you were under at the time of your actions? Are all those statements true?

THE DEFENDANT: Yes.

THE COURT: [Is] the Information, the story contained in the probable cause section of the criminal complaint, the underlying criminal complaint in 12-CF-76 true and correct?

....

THE DEFENDANT: Yes.

THE COURT: Thank you.

¶7 Moreover, the Brown County District Attorney's Office was authorized to prosecute the bail jumping charge and the Brown County Circuit

Court had jurisdiction because Jackson failed to comply with terms of the bonds in Brown County. *See* WIS. STAT. § 971.19(2)²; WIS JI—CRIMINAL 1795.

¶8 Jackson next argues the circuit court was obligated to enforce the terms of a prior plea offer. Jackson maintains the prior plea offer required the prosecutor to recommend a one-year jail sentence as a condition of probation. Jackson bases his claim on a September 2012 plea offer, but Jackson rejected that plea offer and ultimately struck a plea deal containing different terms in February 2013.

¶9 Jackson also insists his sentence was a “direct act of vindictiveness against him for exercising his rights[,]” and that the sentencing court had a “retaliatory and racist motivation” He also contends the court failed to adequately explain its sentence. Jackson forfeited these arguments by failing to file in the circuit court a motion to correct the sentence. *See State v. Norwood*, 161 Wis. 2d 676, 680, 468 N.W.2d 741 (Ct. App. 1991). In addition, Jackson’s claims of racial bias and retaliatory motive are unsupported and belied by the record.

¶10 The record demonstrates the circuit court properly exercised its sentencing discretion. The court considered the proper factors and imposed a sentence authorized by law that was not unduly harsh or excessive. *See State v. Grindemann*, 2002 WI App 106, ¶32, 255 Wis. 2d 632, 648 N.W.2d 507. The court noted Jackson’s extensive “correctional experience in different settings, different states[.]” The court also emphasized that Jackson minimized the current

² References to the Wisconsin Statutes are to the 2011-12 version.

offense, concluding he “really believes that he is getting screwed by the court, by counsel, by the victim, by the cops, by the system. And I’m just not able to reach that same conclusion.” The court concluded, “I’m satisfied that given his history, there is an intense need to protect the public. Mr. Jackson has not matured. As a 42-year-old man, he very, very much still acts like a self-centered and childish child”

¶11 Finally, we decline to exercise our statutory discretionary power of reversal pursuant to WIS. STAT. § 752.35. The record fails to establish the real controversy was not fully tried or justice miscarried. *See State v. Peters*, 2002 WI App 243, ¶18, 258 Wis. 2d 148, 653 N.W.2d 300.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

